

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

COURTNEY MOTLEY,

Plaintiff,

vs.

STATE OF NEVADA, *et al.*,

Defendants.

Case No.: 2:21-cv-02075-GMN-BNW

**ORDER REGARDING PRO SE BENCH
TRIAL**

Pending before the Court is the Motion for Preliminary Injunction, (ECF No. 86), which the Court construes as a Demand for a Pro Se Bench Trial, filed by Plaintiff Courtney Motley. Defendants Matthew Malta and Carlos Miranda filed a Response, (ECF No. 97). Further pending before the Court is Plaintiff's Motion to Continue Pro Se and Bench Trial, (ECF No. 98). Defendants filed a Response, (ECF No. 102). Lastly pending before the Court are Plaintiff's Motion for Clarification, (ECF No. 104), and an identical filing titled Motion for Next Court Date, (ECF No. 105).

For the reasons stated below, the Court GRANTS Plaintiff's Motion for Preliminary Injunction, which the Court construes as a Demand for a Pro Se Bench Trial. It also DENIES as MOOT Plaintiff's Motion to Continue Pro Se and Bench Trial, Motion for Clarification, and Motion for Next Court Date.¹

I. DISCUSSION

This case arises from multiple incidents during which Plaintiff alleges correctional officer Defendants used excessive force against Plaintiff, a pretrial detainee, while he was incarcerated at Clark County Detention Center ("CCDC"). (*See generally* First Am. Compl.

¹ These motions are denied as moot because they seek identical relief as requested in Plaintiff's Motion for Preliminary Injunction.

1 (“FAC”), ECF No. 3). This matter was originally set for a jury trial on May 6, 2024, but the
2 trial did not take place as scheduled due to the parties’ stipulated continuances and because
3 Plaintiff’s pro bono counsel withdrew from the case. Plaintiff’s case was resubmitted to the
4 Pro Bono Program in November 2024. (Mot. Hearing Mins., ECF No. 75). In March 2024, the
5 Court stayed the case until it received a notice of appearance from Plaintiff’s appointed
6 counsel, or a notice from the Pro Bono Program that it was unable to find an attorney for
7 Plaintiff. The Court also vacated the jury trial that had been rescheduled to begin on April 7,
8 2025. As of this date, a new pro bono attorney has not been appointed.

9 In the Motion for Preliminary Injunction, Plaintiff requests to represent himself pro se
10 and for a bench trial to be scheduled rather than a jury trial. (See Mot. Prelim. Inj., ECF No.
11 86). In a Minute Order, (ECF No. 87), the Court informed Plaintiff that “[a] litigant in federal
12 court has a right to act as his or her own counsel.” *Johns v. Cnty. of San Diego*, 114 F.3d 874,
13 876 (9th Cir. 1997) (citing 28 U.S.C. § 1654). But due to how the motion was titled, the Court
14 ordered Plaintiff to affirmatively inform the Court whether he wished to proceed pro se or
15 remain referred to the Federal Pro Bono Program. Plaintiff then filed his Motion to Continue
16 Pro Se and Bench Trial which confirms his desire to proceed pro se. (Mot. Pro Se, ECF No.
17 98).

18 In the same Minute Order, the Court also addressed Plaintiff’s request for a bench trial.
19 Federal Rule of Civil Procedure 38 states that “[a] proper demand [for a jury trial] may be
20 withdrawn only if the parties consent.” The Court explained to Plaintiff that because his initial
21 Complaint properly demanded a jury trial, he could not change the proceeding from a jury trial
22 to a bench trial without Defendants’ consent. The Court then ordered Defendants to notify the
23 Court whether they consented to a bench trial. Thereafter, Defendants filed a notice informing
24 the Court that they consent to a bench trial being conducted. (See Not., ECF No. 97).

1 In sum, all parties consent to Plaintiff proceeding pro se and a bench trial being
2 scheduled.

3 **II. CONCLUSION**

4 **IT IS HEREBY ORDERED** that the stay in this case is **LIFTED**.

5 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Preliminary Injunction, (ECF
6 No. 86), is **GRANTED** to the extent that Plaintiff requests to proceed pro se and for a bench
7 trial to be scheduled.

8 **IT IS FURTHER ORDERED** that Plaintiff's Motion to Continue Pro Se and Bench
9 Trial, (ECF No. 98), is **DENIED as MOOT**.

10 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Clarification, (ECF No. 104),
11 is **DENIED as MOOT**.

12 **IT IS FURTHER ORDERED** Plaintiff's Motion for Next Court Date, (ECF No. 105),
13 is **DENIED as MOOT**.

14 **IT IS FURTHER ORDERED** that the parties shall have thirty days from the date of
15 this Order to file a jointly proposed pretrial order pursuant to LR 16-3(b) using the form
16 provided in LR 16-4.

17 **DATED** this 3 day of June, 2025.

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22 Gloria M. Navarro, District Judge
23 United States District Court
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